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TO ALCGCIV

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SUBJECT: MESSAGE FROM UNDER SECRETARY HALE

1. DHS UNDER SECRETARY HALE MEMO DATED FEBRUARY 18, 2004.

A. I AM PLEASED TO REPORT THAT ON FRIDAY WE WILL BE ISSUING PROPOSED REGULATIONS FOR THE DEPARTMENT'S NEW HR SYSTEM IN THE FEDERAL REGISTER. THESE PROPOSED REGULATIONS, ADDRESSING CHANGES IN PAY, CLASSIFICATION, PERFORMANCE MANAGEMENT, LABOR RELATIONS, ADVERSE ACTIONS AND APPEALS ARE THE CULMINATION OF UNPRECEDENTED COLLABORATION BETWEEN EMPLOYEES, MANAGEMENT, UNIONS, AND HUMAN RESOURCE PROFESSIONALS FROM BOTH DHS AND THE OFFICE OF PERSONNEL MANAGEMENT (OPM).

B. SECRETARY RIDGE AND OPM DIRECTOR KAY COLES JAMES EVALUATED THE EXTENSIVE RESEARCH CONDUCTED BY OUR HR DESIGN TEAM, INCLUDING THE FEEDBACK FROM NATIONWIDE EMPLOYEE FOCUS GROUPS AND TOWN HALL MEETINGS, AS WELL AS THE PUBLIC DELIBERATIONS OF THE SENIOR REVIEW COMMITTEE, BEFORE PROPOSING REGULATIONS THAT THEY FEEL BEST SUPPORT EMPLOYEES' NEEDS AND THE CRITICAL MISSION OF DHS.

C. I'VE ATTACHED A FACT SHEET THAT PROVIDES AN OVERVIEW OF THE PROPOSED SYSTEM. PLEASE TAKE TIME TO REVIEW IT, AS IT MAY ANSWER MANY OF YOUR QUESTIONS.

D. BEGINNING FRIDAY, YOU WILL BE ABLE TO ACCESS THE PROPOSED REGULATIONS AT [WWW.EPA.GOV/EDOCKET](http://WWW.EPA.GOV/EDOCKET). THIS SITE WILL INCLUDE ALL OF THE BACKGROUND INFORMATION ON THE HR DESIGN PROCESS AND INSTRUCTIONS AND DEADLINES FOR SUBMITTING PUBLIC COMMENT. THERE WILL ALSO BE A LINK TO THIS SITE ON THE DHS HOMEPAGE [WWW.DHS.GOV](http://WWW.DHS.GOV).

E. FOLLOWING THE PUBLICATION OF THE PROPOSED REGULATIONS, A 30-DAY PUBLIC COMMENT PERIOD WILL ENSUE AND ALL EMPLOYEES, ALONG WITH MEMBERS OF THE PUBLIC, WILL HAVE AN OPPORTUNITY TO SUBMIT FORMAL COMMENTS.

F. I URGE YOU TO TAKE ADVANTAGE OF THIS OPPORTUNITY TO REVIEW AND PROVIDE FORMAL FEEDBACK ON THE PROPOSED REGULATIONS SO WE CAN ENSURE THAT OUR NEW HR SYSTEM MEETS YOUR NEEDS.

G. PLEASE KEEP IN MIND THAT THESE ARE PROPOSED REGULATIONS AND ARE SUBJECT TO CHANGE BASED ON CAREFUL CONSIDERATION OF THE INPUT RECEIVED DURING THE PUBLIC COMMENT PERIOD. IN THE INTERIM, ANY CHANGES MADE TO CURRENT HR POLICIES AND PRACTICES WILL BE MADE UNDER CURRENT REGULATIONS AND PROCEDURES UNTIL FINAL REGULATIONS ARE PUBLISHED. THIS IS SCHEDULED TO OCCUR IN LATE SPRING.

H. WE BELIEVE THAT THESE PROPOSED REGULATIONS FULFILL THE PROMISE OF THE HOMELAND SECURITY ACT OF 2002 BY PROVIDING A FLEXIBLE AND CONTEMPORARY HR SYSTEM THAT MEETS THE MISSION NEEDS OF DHS WHILE MAINTAINING OUR PLEDGE TO INCLUDE FUNDAMENTAL MERIT PRINCIPLES, TO PREVENT PROHIBITED PERSONNEL PRACTICES, AND TO HONOR AND PROMOTE VETERANS PREFERENCE.

I. I LOOK FORWARD TO YOUR CONTINUED PARTICIPATION IN THIS IMPORTANT PROCESS AND TO OUR SHARED COMMITMENT TO THE PROTECTION OF OUR NATION.

J. SINCERELY, JANET HALE, UNDER SECRETARY FOR MANAGEMENT.

2. DHS PROPOSED HR SYSTEM FACT SHEET.

A. WILL EMPLOYEES HAVE A VOICE IN FINAL SYSTEM REGULATIONS AND IMPLEMENTATION? YES. FOLLOWING THE PUBLICATION OF THE PROPOSED REGULATIONS, A 30-DAY PUBLIC COMMENT PERIOD WILL ENSUE AND ALL EMPLOYEES, ALONG WITH MEMBERS OF THE PUBLIC, WILL HAVE AN OPPORTUNITY TO SUBMIT FORMAL COMMENTS.

B. THERE WILL BE TWO METHODS FOR SUBMITTING PUBLIC COMMENT:

(1) VIA THE INTERNET. THE SITE [WWW.EPA.GOV/EDOCKET](http://WWW.EPA.GOV/EDOCKET) WILL DETAIL THE PROPOSED REGULATIONS AND PROVIDE FORMS FOR SUBMITTING PUBLIC COMMENT ELECTRONICALLY.

(2) VIA U.S. MAIL. WRITTEN SUBMISSIONS, REFERENCING DHS/OPM AND DOCKET NUMBER (DHS-2004-001), CAN BE SENT TO:

DHS/OPM HR SYSTEM PUBLIC COMMENTS

PO BOX 14474

WASHINGTON DC 20044-4474

C. WHAT ARE THE GOALS OF THE NEW PERSONNEL SYSTEM? THE GOALS OF THE NEW HR SYSTEM ARE TO:

(1) ENABLE DHS TO ACT SWIFTLY AND DECISIVELY IN RESPONSE TO MISSION NEEDS.

(2) ALLOW DHS TO ADAPT TO THE CHANGING NATURE OF OUR WORK.

(3) ATTRACT AND MAINTAIN A HIGHLY SKILLED AND MOTIVATED WORKFORCE.

(4) RECOGNIZE AND REWARD PERFORMANCE.

(5) ENSURE DUE PROCESS AND PROTECT BASIC EMPLOYEE RIGHTS.

D. WHO WILL BE AFFECTED BY THE NEW SYSTEM? DHS IS PROPOSING THAT MOST EMPLOYEES WILL BE COVERED BY THE NEW HR SYSTEM, WITH THE FOLLOWING EXCEPTIONS:

(1) MILITARY PERSONNEL

(2) TSA SCREENERS

(3) EXECUTIVE SCHEDULE (EX, PAS)

(4) EMPLOYEES OF THE OFFICE OF INSPECTOR GENERAL

(5) ADMINISTRATIVE LAW JUDGES

NOTE: WAGE GRADE EMPLOYEES, SENIOR EXECUTIVE SERVICE (SES) EMPLOYEES, AND MEMBERS OF THE UNIFORMED DIVISION OF THE SECRET SERVICE WILL KEEP THEIR CURRENT PAY AND CLASSIFICATION SYSTEMS (BUT ALL OTHER PROVISIONS OF THE NEW HR SYSTEM WILL APPLY).

E. WILL EMPLOYEES LOSE THEIR JOBS? WILL PAY OR BENEFITS CHANGE?

(1) NO JOBS WILL BE ELIMINATED AS A RESULT OF THE TRANSITION TO THE NEW SYSTEM.

(2) THERE WILL BE NO REDUCTION IN CURRENT PAY OR BENEFITS FOR EMPLOYEES AS A RESULT OF THE TRANSITION TO THE NEW SYSTEM.

(3) THE PROPOSED HR SYSTEM WILL NOT CHANGE THE RULES REGARDING RETIREMENT, HEALTH OR LIFE INSURANCE BENEFITS, OR LEAVE ENTITLEMENTS.

(4) THE PROPOSED HR SYSTEM WILL NOT ADDRESS OR CHANGE CURRENT OVERTIME POLICIES AND PRACTICES; HOWEVER, DHS CONTINUES TO REVIEW THESE POLICIES AND PRACTICES.

(5) OUR PLEDGE TO INCLUDE FUNDAMENTAL MERIT PRINCIPLES, TO PREVENT PROHIBITED PERSONNEL PRACTICES, AND TO HONOR AND PROMOTE VETERANS PREFERENCE WILL NOT CHANGE.

F. PAY. THE PROPOSED SYSTEM WILL ENSURE A STRONGER CORRELATION BETWEEN PAY AND PERFORMANCE AND MORE SENSITIVITY TO CHANGES IN THE MARKET. THE PROPOSED SYSTEM PROVIDES EMPLOYEES WITH A GREATER OPPORTUNITY TO INFLUENCE THEIR PAY. ALL EMPLOYEES WHO MEET ORGANIZATIONAL EXPECTATIONS WILL RECEIVE A PERFORMANCE-BASED INCREASE, AND OUTSTANDING PERFORMERS WILL RECEIVE HIGHER INCREASES.

KEY ASPECTS OF THE PROPOSED PAY SYSTEM INCLUDE:

(1) WIDE BANDS THAT ARE OPEN (E.G., NO STEPS) AND BASED ON LOCAL LABOR MARKET RATES.

(2) OTHER INDIVIDUAL ADJUSTMENTS (LIKE CURRENT "SPECIAL RATES") ALSO AVAILABLE FOR UNUSUALLY DIFFICULT ASSIGNMENTS, SPECIAL SKILLS, OR RECRUITING/RETENTION PURPOSES.

(3) WITHIN EACH CLUSTER, PROMOTION TO ANOTHER BAND (E.G., FULL PERFORMANCE TO SENIOR EXPERT) REQUIRES ASSESSMENT AND/OR COMPETITION.

(4) NO REDUCTION IN EMPLOYEES' CURRENT PAY OR BENEFITS AS A RESULT OF THE TRANSITION TO THE NEW SYSTEM.

(5) ANNUAL RATE ADJUSTMENTS BASED ON LABOR MARKET CONDITIONS, MISSION, AVAILABILITY OF FUNDS, THE LEVEL OF PAY ADJUSTMENTS RECEIVED BY EMPLOYEES OF OTHER FEDERAL AGENCIES, AND OTHER FACTORS; ALL EMPLOYEES WHO MEET ORGANIZATIONAL EXPECTATIONS WILL RECEIVE THIS ANNUAL ADJUSTMENT.

A. MARKET ADJUSTMENTS MAY DIFFER BY OCCUPATIONAL CLUSTER AND BY LOCALITY.

(6) ADDITIONAL INCREASES TO EMPLOYEE BASE PAY WILL BE BASED ON PERFORMANCE AND/OR DEMONSTRATED COMPETENCY ATTAINMENT; ALL EMPLOYEES WHO MEET ORGANIZATIONAL EXPECTATIONS WILL RECEIVE A PERFORMANCE-BASED INCREASE, WITH HIGHER INCREASES TO OUTSTANDING PERFORMERS.

(7) GAINSHARING/GOALSHARING, SPECIAL ACT AWARDS, AND PERFORMANCE BONUSES ALSO AVAILABLE.

G. PERFORMANCE MANAGEMENT. THE PROPOSED SYSTEM INCLUDES A REVAMPED PERFORMANCE MANAGEMENT SYSTEM DESIGNED TO MORE ACCURATELY MEASURE EMPLOYEES' COMPETENCIES AND CONTRIBUTIONS. KEY ASPECTS OF THE PROPOSED PERFORMANCE MANAGEMENT SYSTEM INCLUDE:

(1) TRADITIONAL PERFORMANCE ELEMENTS AND STANDARDS ARE NOW OPTIONAL, ALLOWING PERFORMANCE EXPECTATION TO BETTER REFLECT ASSIGNMENT-SPECIFIC STANDARDS.

(2) THERE ARE NO QUOTAS OR FORCED RATINGS DISTRIBUTIONS.

(3) SUBSTANTIAL INVESTMENT IN MANAGERIAL TRAINING AND OVERSIGHT BY A PERFORMANCE REVIEW BOARD WILL HELP TO ENSURE FAIRNESS AND CONSISTENCY.

(4) PERFORMANCE RATINGS/PAY CONSEQUENCES ARE GRIEVABLE AND UNACCEPTABLE PERFORMANCE RATINGS THAT RESULT IN ADVERSE ACTIONS MAY BE APPEALED.

H. LABOR RELATIONS. THE PROPOSED LABOR RELATIONS CHANGES ADDRESS THE DEPARTMENT'S NEED TO ACCOMPLISH ITS MISSION. THEY ALSO RECOGNIZE THE IMPORTANCE OF UNION INVOLVEMENT AND ENCOURAGE CONSULTATION AND COLLABORATION WITH UNIONS WHERE IT IS APPROPRIATE AND FEASIBLE. KEY ASPECTS OF THE PROPOSED LABOR RELATIONS SYSTEM INCLUDE THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY, WHILE ADDING PROVISIONS THAT ENABLE DHS TO TAKE ACTION AND MEET OTHER MISSION NEEDS WITHOUT UNNECESSARY DELAY:

(1) ALLOWS DHS TO ACT SWIFTLY AND DECISIVELY IN RESPONSE TO MISSION NEEDS BY REMOVING THE REQUIREMENT FOR COLLECTIVE BARGAINING OVER THE IMPACT AND IMPLEMENTATION OF CORE MANAGEMENT RIGHTS (E.G., DEPLOYMENT OF PERSONNEL, ASSIGNMENT OF WORK, USE OF NEW TECHNOLOGY). IMPACT AND IMPLEMENTATION BARGAINING OF THESE ISSUES MAY BE DONE AT DHS'S DISCRETION.

(2) MAINTAINS THE RIGHT TO BARGAIN COLLECTIVELY REGARDING THE IMPACT AND IMPLEMENTATION OF OTHER MANAGEMENT RIGHTS BELOW THE DEPARTMENTAL LEVEL (E.G., APPROPRIATE ARRANGEMENTS/PROCEDURES FOR LAY-OFFS, STAFFING, DISCIPLINE, LEAVE, AND PAY REDUCTIONS) THAT SIGNIFICANTLY IMPACT A SUBSTANTIAL PORTION OF THE

BARGAINING UNIT.

(3) SPEEDS UP COLLECTIVE BARGAINING BY IMPOSING A 30-DAY TIME LIMIT ON ALL MID-TERM BARGAINING AND A 60-DAY DEADLINE FOR TERM AGREEMENTS.

(4) ENCOURAGES CONSULTATION AND COLLABORATION WITH UNIONS.

(5) ESTABLISHES AN INDEPENDENT DHS LABOR RELATIONS BOARD TO RESOLVE ALL BARGAINING MATTERS AND DISPUTES- ENSURING QUICK RESOLUTION AND A FOCUS ON THE DEPARTMENT'S MISSION WHILE MAINTAINING FAIRNESS.

(6) RETAINS FLRA TO RESOLVE OTHER LABOR RELATIONS MATTERS INCLUDING EMPLOYEE UNFAIR LABOR PRACTICES (ULPS) AND UNION ELECTIONS.

I. ADVERSE ACTIONS. THE PROPOSED CHANGES TO THE ADVERSE ACTIONS PROCESS ARE INTENDED TO CREATE A FASTER, STREAMLINED PROCESS THAT BETTER SUPPORTS THE DHS MISSION, WHILE ENSURING FAIRNESS FOR EMPLOYEES. KEY ELEMENTS OF THE PROPOSED ADVERSE ACTION SYSTEM INCLUDE:

(1) RETAINS THE SAME DEFINITIONS FOR WHAT CONSTITUTES AN ADVERSE ACTION.

(2) ESTABLISHES A SINGLE PROCESS FOR TAKING EITHER A PERFORMANCE-BASED OR A CONDUCT-BASED ACTION.

(3) ELIMINATES THE REQUIREMENT FOR A PERFORMANCE IMPROVEMENT PLAN.

(4) INCLUDES A STANDARD 15-DAY NOTICE PERIOD OF FAILURE/PROPOSED ACTION AND A 5-DAY RIGHT TO REPLY (PERFORMANCE OR CONDUCT).

(5) AUTHORIZES THE SECRETARY TO IDENTIFY SPECIFIC OFFENSES FOR WHICH REMOVAL IS MANDATORY.

J. APPEALS. THE PROPOSED CHANGES TO THE APPEALS PROCESS WILL CREATE A SIMPLER AND FASTER APPEALS PROCESS THAT WILL LEAD TO A QUICKER RESOLUTION OF ISSUES WHILE MAINTAINING AN AVENUE TO INDEPENDENT DUE PROCESS. KEY ELEMENTS OF THE PROPOSED APPEALS SYSTEM INCLUDE:

(1) RETAINS AN INDEPENDENT REVIEW BY ALLOWING EMPLOYEES TO APPEAL TO MSPB, EXCEPT FOR MANDATORY REMOVAL OFFENSES.

(2) ESTABLISHES AN INDEPENDENT DHS PANEL TO REVIEW APPEALS OF ACTIONS BASED ON MANDATORY REMOVAL OFFENSES.

(3) NO CHANGES HAVE BEEN MADE TO EEOC-RELATED APPEALS.

(4) STREAMLINES MSPB APPEALS THROUGH SHORTENED PROCESSING AND FILING TIMES FOR APPEALS, ACCELERATED DECISION TIME FRAMES, ETC.

(5) ELIMINATES AUTHORITY OF MSPB OR OTHER PARTIES TO MITIGATE AGENCY-SELECTED PENALTY, EXCEPT IN CASES OF DISCRIMINATION OR OTHER PROHIBITED PERSONNEL PRACTICES.

(6) ENCOURAGES THE USE OF ALTERNATIVE DISPUTE RESOLUTION (ADR).

K. WHAT IS THE TIMELINE FOR THE PROPOSED SYSTEM? THE PROPOSED SYSTEM WILL BE IMPLEMENTED IN PHASES TO ALLOW FOR DETAILED DESIGN, TRAINING, AND CAREFUL IMPLEMENTATION. DHS PROPOSES THAT LABOR RELATIONS, ADVERSE ACTIONS, AND APPEAL SYSTEMS WILL BE EFFECTIVE NO SOONER THAN 30 DAYS AFTER THE FINAL REGULATIONS ARE PUBLISHED. PERFORMANCE MANAGEMENT AND PAY CONVERSIONS WILL BE PHASED IN (BY COMPONENT) WITH DHS HEADQUARTERS, IAIP, S&T, AND USCG, BEGINNING IN FALL 2004. ALL OTHERS WILL BEGIN IN FALL 2005.

L. IS THERE GOING TO BE THE APPROPRIATE FUNDING AND TRAINING AVAILABLE TO IMPLEMENT THE PROPOSED SYSTEM? THE ADMINISTRATION RECOGNIZES THE IMPORTANCE OF FUNDING THIS MAJOR REFORM EFFORT. THEY HAVE REQUESTED \$12.5 MILLION FOR A PERFORMANCE PAY FUND TO COVER THE FIRST PHASE OF IMPLEMENTATION (AFFECTING APPROXIMATELY 8,000 EMPLOYEES) TO RECOGNIZE THOSE WHO MEET OR EXCEED EXPECTATIONS. IN ADDITION, THE ADMINISTRATION HAS REQUESTED \$100 MILLION IN FY 2005 TO FUND TRAINING AND THE DEVELOPMENT OF THE PERFORMANCE MANAGEMENT AND COMPENSATION SYSTEMS.

M. ARE OTHER HUMAN CAPITAL PRIORITIES BEING ADDRESSED BY DHS, IN ADDITION TO THE IMPLEMENTATION OF THE NEW HR SYSTEM? YES. IN ADDITION TO THE DETAILED DESIGN AND IMPLEMENTATION OF THE NEW HR SYSTEM FOR DHS, AS SPECIFIED IN THE DRAFT REGULATIONS, THE DEPARTMENT IS PURSUING MANY OTHER HUMAN CAPITAL INITIATIVES. AMONG OTHER ACTIVITIES, DHS PLANS TO:

(1) ESTABLISH A DEPARTMENT-WIDE HUMAN CAPITAL STRATEGIC PLAN AND METRICS, WORKING WITH ALL OF THE COMPONENTS TO ENSURE STRATEGIC INTEGRATION.

(2) DEVELOP AND INITIATE SEVERAL PROGRAMS TO ENHANCE LEADERSHIP CAPABILITY THROUGHOUT THE DEPARTMENT.

(3) DELIVER MANAGEMENT TRAINING TO INCREASE SUPERVISORY SKILLS.

(4) DEVELOP VARIOUS PROGRAMS TO SUPPORT EMPLOYEES (E.G., CHILD CARE REIMBURSEMENT, FLEXIBLE WORK SCHEDULES, EMPLOYEE ASSISTANCE).

(5) ADDRESS RECRUITING AND STAFFING ISSUES (E.G., THROUGH THE USE OF INNOVATIVE STAFFING TECHNIQUES).

(6) IMPLEMENT NEW TECHNOLOGY TO SUPPORT HUMAN RESOURCES NEEDS (E.G., HR IT, APPLICANT TRACKING).

(7) CONDUCT AN EMPLOYEE SURVEY TO GAUGE EMPLOYEE SATISFACTION AND NEEDS, SO THAT THE DEPARTMENT CAN BETTER UNDERSTAND AND RESPOND TO ORGANIZATIONAL AND CULTURAL ISSUES.

N. INTERNET RELEASE AUTHORIZED.

O. RONALD R. KOGUT, CHIEF, OFFICE OF CIVILIAN PERSONNEL SENDS.  
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